

California Public Utilities Commission

Work Plan 2004

January 2004

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Introduction

This Work Plan generally describes the work the California Public Utilities Commission (CPUC) expects to accomplish during 2004. It is provided pursuant to Public Utilities (PU) Code §321.6 and §321.7 and is intended to provide the Governor, Legislature, and public with the highlights of the work the CPUC will undertake this year. It describes CPUC's objectives and priorities, and identifies the key issues the CPUC will focus on during 2004 to achieve its goals and satisfy legislative requirements.

Access to background information on the CPUC and current information about the CPUC formal proceedings, its daily calendar of proceedings, meetings, decisions, programs, and public participation hearings, and how the public can arrange through the CPUC Public Advisor's Office to participate in proceedings is available on the CPUC Internet website: <http://www.cpuc.ca.gov/>. A list of current and anticipated formal proceedings of broad public interest is provided as an attachment to this document.

Criteria for Determining Regulatory Priorities

The CPUC's fundamental objective is to assure fair and reasonable utility prices, and safe, reliable, high quality essential services. CPUC actions are driven by the belief that the provision of reliable and reasonably priced utility services is essential to the health of the California economy, the health and well being of the population, and a high quality of life for all Californians. Within this objective, the CPUC allocates its staff resources for decision making in accordance with a stated set of priorities established by the President.¹ When establishing its priorities and objectives the CPUC considers:

Law – the CPUC sets priorities to assure compliance with and enforcement of the law; where needed, the CPUC may advocate changes in the law.

Interests of the Public – the CPUC puts the interests of the public at large and the State of California ahead of any single entity or constituency consistent with statute.

Dollars at stake – the CPUC sets priorities considering the amount of money at stake and its impacts on consumers and the state's economy.

Vulnerability of target groups – the CPUC places a higher priority on promoting the interests of the public, the State of California and consumers than on arbitrating disputes between regulated service providers; the CPUC addresses issues affecting captive consumers ahead of consumers of services available from a variety of providers, and considers the needs of consumers who are most vulnerable ahead of those who are sophisticated.

¹ PU Code section 305 assigns this responsibility.
CPUC Work Plan 2004, January 2004

Number affected – the CPUC sets priorities considering the number of consumers and businesses affected.

Importance of the service, product or policy – in setting priorities, the CPUC considers the importance of the service, product or policy to the welfare of the state and its consumers; generally, the CPUC addresses issues related to essential services (i.e. basic telephone service) ahead of nonessential services (i.e. repeat dialing service).

Degree of monopoly characteristics present – the CPUC addresses problems with industries and services with monopoly characteristics ahead of those that have some degree of competitive characteristic.

“Bang for the Buck” – because the CPUC does not have the resources to address every issue, the CPUC must set priorities by evaluating the relative costs and benefits of acting or not acting.

In allocating its staff to various activities, the CPUC considers attrition, budget cuts, and hiring freezes, which impact the CPUC personnel and limits the CPUC’s ability to do its job well. In fiscal year 2001-02 the CPUC had 969 authorized positions. This year the number is 879 following the Governor’s elimination of vacancies coupled with hiring freezes. If such freezes continue, the CPUC will lose about 50 more positions each year due to attrition.

ENERGY

The CPUC will continue its efforts to ensure California’s investor-owned utilities (IOUs) are ready to meet the needs of California’s growing economy in a manner that is cost-effective, safe, and environmentally sound. These efforts will be undertaken with collaboration and cooperation from state and federal agencies with energy responsibilities: the Energy Resources Conservation and Development Commission (CEC), Consumer Power and Conservation Financing Authority (CPA), the quasi-governmental Independent System Operator (ISO), and Federal Energy Regulatory Commission (FERC). The *Energy Action Plan (EAP)*, already underway, demonstrates the CPUC’s commitment to collaborate on key energy actions, which are also reflected in this workplan.² The CPUC will also represent the people of California before the FERC and the courts.³

ELECTRICITY

The CPUC regulates privately-owned electric utilities, which serve about 80% of the load in California. Although the black outs and high prices the state experienced during the energy crisis have ended, much work remains to be done. In 2004, the CPUC will

² The CPUC, along with the CPA, and the CEC adopted the EAP in 2003 as a blueprint for the three agencies to focus their energy-related activities. On January 2, 2004, the three agencies submitted a report on EAP implementation activities pursuant to Item 3360-001-0465 of the 2002-03 Budget Act. (<http://www.cpuc.ca.gov/PUBLISHED/REPORT/33091.htm>)

³ The CPUC is designated in statute as the state’s representative at FERC and works closely with the state’s Electricity Oversight Board on subjects the Board also has authority to address pursuant to its enabling statute.

focus on recovering from the energy crisis, resolving the remaining issues related to the energy crisis, and preventing another crisis from happening by:

- Reinvigorating the Obligation to Serve
- Ensuring Rates are Just and Reasonable
- Ensuring that Existing and Newly Constructed Infrastructure are Safe for the Public, Utilities, and their Employees
- Ensuring that the Necessary Infrastructure is Maintained and Developed to Meet Customers' Needs for Reliable, Safe, Affordable, and Environmentally Sensitive Service

The CPUC is Committed to Reinvigorating the Obligation to Serve

The CPUC must ensure that the IOUs adhere to their duty to serve all customers within their franchised service territories.

Because of poor credit ratings, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) were unable to procure power for their customers during the energy crisis. During 2003, however, the three major California electric IOUs successfully resumed power procurement for their customers. The IOUs' ability to deliver reliable service at low and stable prices must continue in the coming years. In 2004, the CPUC will take steps to implement the decision in **PG&E's bankruptcy** case. The CPUC will implement the more than 1 cent per kilowatt-hour (KWh) rate reduction, the \$100 million for the enhancement of the environment and a wilderness experience for inner city urban youth, and a \$30 million clean energy technology program. Returning PG&E to creditworthy status would reduce the amount of cash PG&E needs for collateral, and refunds by generators ordered by FERC in 2004 could further reduce PG&E rates next year. In addition, the CPUC will advocate that the Legislature pass a bill to allow the use of a dedicated rate component (DRC) to lower the cost of restoring PG&E to creditworthiness.

A stable, reasonable, and reliable wholesale market is also crucial to reinvigorating the IOUs' obligation to serve and preserving their financial ability to meet that obligation.

Independent System Operator tariff reforms and the reconstruction of a wholesale market mechanism by the FERC via its **Standard Market Design** rulemaking and review of the ISO reforms are essential components of this effort.

Part of the IOUs' obligation to serve is to identify the customer base for which the IOUs will have to procure energy services. Currently all electric customers receive service from an electric utility unless the customer has signed up to purchase electricity from a company other than an investor-owned utility. This service, called direct access, was suspended as of September 20, 2001.

Assembly Bill (AB) 117 (Ch. 838, 2002 (Migden)) provides a new option for non-utility electric service. This law permits cities and counties to purchase and sell electricity on behalf of utility customers in their jurisdictions after they have registered with the Commission as "**Community Choice Aggregators**" (CCA). In 2004, the CPUC will continue its implementation of this new program by setting a cost responsibility

surcharge so CCA pay their “fair share” of utility procurement costs as required by the new law, and establishing the IOU requirements and responsibilities for supporting the program.

The CPUC will study retail market design, including practices in other states, and may recommend a replacement for or continuation of the direct access suspension. Recently, the debate about the future shape of retail market structure, and the suspended status of direct access has received legislative attention ranging from rolling back deregulation to lifting the direct access suspension and expanding its availability. One legislative approach -- introducing a **core/non-core model** in the electric industry – has been endorsed in concept by the CEC and proposed as state energy policy.⁴ Under this model, “core” customers would continue to receive service from the electric utilities while “non core” customers would arrange for their energy needs on their own. A core/ non-core concept is not new to California. The CPUC put a similar model in the natural gas industry. Participation in an electric core/ non-core program could be either mandatory, as in the gas industry, or optional, as in the case with direct access service prior to September 2001. The CPUC will examine opportunities to allow customers to procure electric services from non-utility providers and produce a “best practices” report in the first quarter of 2004. Among many questions that the Commission’s report will address on the application of the core/non-core model to electric service are:

- Will prices be lower to end-use customers?
- Will it promote Needed Investment in a Least-Cost Efficient Manner?
- Will it ensure a Reliable Electric System/Obligation to Serve?
- What are the effects on economic development activities within the state?
- Who should be allowed to choose their own energy provider?
- What are appropriate size thresholds for allowing customers to choose?
- Should customer switching be optional or mandatory? How to protect customers?
- Effect on California ISO market re-design and the Western wholesale energy market

Rates must Be Just and Reasonable

The CPUC will complete its review of the revenue needs of SDG&E, Southern California Gas Company (SoCalGas), SCE and PG&E **General Rate Case applications (GRC)**.⁵

⁴ The CEC endorsed the concept without detail in its 2003 Integrated Energy Policy Report.

⁵ SCE requested \$286 million over its current revenue requirement of \$2.8 billion. (See A.02-05-004, I.02-06-002.) PG&E originally proposed overall forecast test year 2003 electric and gas distribution revenue requirements of \$2.716 billion and \$1.0 billion, respectively, which, based upon then current authorized revenues, would result in increases of \$447 million in electric distribution revenues and \$105 million in gas distribution revenues. PG&E has since reached a settlement agreement with parties, which provides that 2003 revenue requirements of approximately \$2.493 billion for electric distribution and \$927 million for gas distribution are reasonable. (See A.02-11-017.) SDG&E requests a \$59 million electric revenue increase and a \$22 million gas revenue increase. (See A.02-12-028.) SoCalGas requests an increase of \$130 million. (See A.02-12-027.) The CPUC’s review of these requests includes reviewing the costs of, and rates for energy and for improving the competitive opportunities for state agriculture and other rural energy consumers.

GRCs, which include comprehensive examination of utility operations, are the main vehicle the CPUC uses to establish new **revenue requirements** for the utilities for the services they deliver, and to set rates accordingly. The CPUC will review the factors that go into rates- the **rate design**- and will **allocate costs** and **establish rates** for all classes of customers for these utilities, including rural Californians and agricultural customers. The CPUC will examine setting the residential volume allowance that is charged the lowest rate- the **baseline**- taking into consideration how the needs of customers vary with household characteristics, climate zones and location, time of year, and the need to pump household water from wells, among other things.

In addition to paying rates to support utility revenue requirements, utility customers pay a **bond charge** and a **power charge** on their electric bills to cover the cost of Department of Water Resources' (DWR) bonds and operating costs. The IOUs collect and remit the proceeds from the bond charge to DWR. The DWR is statutorily required to file with the CPUC annually **DWR revenue needs** to support both its bonds and operating costs. The CPUC reviews DWR related costs and establishes the bond charge and the power charge to be borne by each IOUs' customers. In 2004, the CPUC will finalize the bond charge, DWR's revenue requirement, and the power charge to ensure DWR's bonds are serviced and ongoing costs are covered.

The CPUC will continue to work at FERC and in the courts to bring down energy rates that were raised during the 2000-2001 energy crisis. The CPUC will continue litigation to reduce rates by \$2 to \$4 billion under energy crisis long-term contracts with generators and will pursue \$3 to \$9 billion worth of **refunds from generators**. The CPUC continues to fight at the federal level on behalf of electric customers in California who paid above market prices for electricity during the energy crisis. In 2002, the CPUC filed a complaint with FERC on long-terms contracts entered into between the California DWR and various sellers. Based on the submitted evidence, the CPUC asked the FERC to support reductions in contract payments or refunds from generators worth billions of dollars to California consumers. FERC denied the CPUC's request on November 10, 2003, leaving in place unjust and unreasonable contract payments by California consumers. The CPUC has filed an appeal at the 9th Circuit Court of Appeals challenging FERC's decision and in 2004 will continue its fight for just and reasonable rates for Californians.

The CPUC also must ensure that direct access customers pay their share of electricity procurement costs incurred during the energy crisis to avoid such costs being unfairly shifted to the remaining utility customers. Direct access and departing load customers pay for those costs in the form of a surcharge (Cost Responsibility Surcharge, CRS). In 2004, the CPUC will adopt a **final Cost Responsibility Surcharge** for direct access and departing load customers and will address the **electric service provider's expanded registration and reentry fees** as mandated by AB 117.

Existing and Newly Constructed Infrastructure Must Be safe for the Public, Utilities and their Employees

The CPUC takes its utility safety mandate seriously and endeavors to perform its inspection and investigative responsibilities in a manner that ensures that all utilities maintain and develop their facilities in a safe, reliable and environmentally sound

manner. In 2004, the CPUC will turn its attention from performing direct, on-site safety inspections of electric facilities and move toward performing quality review inspections of the utilities' own safety compliance efforts. With this shift of focus, CPUC expects to place more responsibility on the utilities and their employees in maintaining and developing their systems to ensure safe and reliable operations while retaining the CPUC's overall safety oversight function.

Infrastructure Must Be Developed to Meet the Electric Needs of Customers in a Reliable, Safe, Affordable, and Environmentally Sensitive Manner

The CPUC will take the necessary actions to ensure the utilities are well prepared to meet the electricity needs of California customers in the coming years. This will require a comprehensive and an integrated approach toward **resource planning**, taking advantage of the variety of resource options that are available to the utilities and balancing among many competing needs and policies. Energy efficiency, transmission improvements, distributed generation (DG), utility generation, ownership and contracting for resources, and renewable resources are all considered in this integrated approach to ensure a diversified portfolio for the IOUs. The CPUC established a framework for IOU long-term planning and will act on the following in 2004:

- Review IOUs' modified short-term procurement plans.
- Develop a framework for resource adequacy for reliability. IOU long term plans must address how they plan to acquire sufficient reserves for all customers within their service territory.
- Develop procurement incentive mechanisms, develop policy for expiring contracts with electricity generators that use renewable resources or cogeneration (Qualifying facilities), review and adopt long-term procurement plans for the three utilities, and resolve remaining issues related to resource adequacy.

Transmission development is a key component of utility long-term procurement plans. California's businesses and growing economy depend on a transmission grid that is safe, reliable, secure, allows for efficient delivery of electricity at all times, and prevents market power. California's dynamic economy also requires that its transmission grid evolve as population grows and shifts and industries develop, locate and relocate.

Many transmission projects were approved in 2003, adding a total of 11,000 MW of capacity to the grid. With input from the ISO, CEC, and stakeholders, the CPUC will continue in 2004 to **identify and prioritize review of the potential transmission construction projects** to alleviate transmission constraints that are costly, and impede the reliable and efficient operation of the system. Currently, the CPUC is reviewing 120 transmission projects throughout the state to mitigate local constraints and secure a more efficient and reliable transmission grid in California. Major transmission projects under review in 2004 are:

- Tehachapi Wind Power Transmission Project
- Mission-Miguel 230kV Transmission Project
- Jefferson-Martin 230kV Transmission Line Project
- Devers-Palo Verde 500 KV Transmission Line Project

The CPUC recognizes that it must improve its transmission planning and siting process. Improvements in planning are coming in the context of utility long-term plans, where transmission improvements will be considered along with other resource options. To facilitate the transmission application process at the CPUC, the CPUC acknowledged in the EAP the inefficiencies that exist in the current IOU transmission siting process and committed to working with other responsible agencies to eliminate the duplications and improve the current review process. A new rulemaking will develop specific methods to **streamline the existing transmission siting process**. This rulemaking will examine the CPUC's process and practices for determining the need for new transmission that require a Certificate of Public Convenience and Necessity (CPCN) using the ISO transmission need assessments to implement a more comprehensive, efficient and timely process in 2004.

2004 will also be the year the CPUC first implements a **renewable generation auction**. Along with the CEC, the CPUC has been implementing the **renewable portfolio standard** (RPS) established in Senate Bill (SB) 1078 (Ch. 516, 2002 (Sher)). The purpose of the RPS is to increase, by 1% per year, the proportion of electricity consumed in the state that is generated from renewable sources. The ultimate goal of SB 1078 is a 20% renewable portfolio by 2017, with each load-serving entity expected to meet its own obligation. Renewable infrastructure development will be a prominent part of investor-owned utility long-term integrated procurement plans and electric infrastructure development.

Along with transmission and renewable generation development, the CPUC continues to aggressively pursue the benefits of energy efficiency for California customers through adoption of energy efficiency programs and options in its **energy efficiency rulemaking**. Consistent with prioritizing energy efficiency above other resource options in the EAP, the CPUC increased energy efficiency funding by 43% above the statutorily authorized levels in 2003, adding \$245 million in energy efficiency funding through the integrated procurement proceeding. In the first quarter of 2004, the CPUC will finalize the selection of programs to receive funding for 2004 and 2005.

Building on a series of informal workshops held in 2003 to understand the role of energy efficiency, the CPUC will restructure the administration of energy efficiency programs in a way that allows energy efficiency to remain a prominent resource serving Californians. The upcoming workshops will focus on **performance incentives** for energy efficiency program providers, enhancement of **evaluation, measurement and verification** tools, establishing **statewide goals for energy reduction** through energy efficiency and setting the **proper administration** of ratepayer-funded energy efficiency, which may include an independent or non-utility administration.

The CPUC has also been working with the CEC and CPA in reshaping customer electric usage through **demand response** programs. In 2004 the CPUC will assess and implement the IOUs' Automated Demand Response System (ADRS) pilot plans detailing the pilot evaluation plan, costs, selected technology, and rate treatments. The CPUC will further explore **metering infrastructure deployment** in 2004, based in part on

what is learned from the pilot program evaluation.

The final area of electric infrastructure development the CPUC will work on in 2004 is the area of **Distributed Generation (DG)**. The CPUC recognizes the potential value of DG— small generation facilities at or near the customer's location – in enhancing reliability and providing high quality power for Californians and is promoting DG as a planning and procurement resource option for the California IOUs. The CPUC will develop a cost-benefit analysis methodology to evaluate DG and address the proper level of public subsidies for DG technologies in coordination with the CEC through a rulemaking initiated in the first quarter of 2004.

However, no amount of infrastructure development will ensure that generation facilities are effectively and appropriately maintained and operated. The CPUC will enforce and establish rules and standards in **Generator Operating And Maintenance Rulemaking** to ensure reliable operation of non-utility generation.

NATURAL GAS

To ensure California customers receive a safe and reliable supply of natural gas, the CPUC examines the adequacy of IOU natural gas infrastructure, and availability of natural gas supplies. The CPUC also ensures that the IOUs charge reasonable gas rates, and seeks ways to mitigate against high and volatile natural gas prices. The CPUC has the following primary objectives in the natural gas sector:

- Evaluating the IOUs' Supply and Infrastructure Needs
- Ensuring Gas Facilities Are Operated in a Manner that Is Safe to the Public, Utilities, and their Employees
- Ensuring Reasonable Natural Gas Rates

Examining the IOUs' Supply and Infrastructure Needs

In order to ensure reliable gas service adequate supplies must exist, and sufficient pipeline capacity must be available to deliver the gas to customers. Shortages of supplies or inadequate infrastructure will hamper the quality and reliability of service. Adequate infrastructure also allows access to multiple sources of supplies to enhance the diversity of supply sources and to optimize the IOU's ability to obtain the lowest-priced gas supplies for its customers.

In December 2003, the CPUC and the CEC jointly sponsored a workshop on California's future needs for natural gas and the natural gas infrastructure that will be necessary to meet these needs. In 2004, the CPUC will follow-up the workshop with a **natural gas outlook rulemaking**, which will comprehensively address California public utilities' role in ensuring that there is enough long-term natural gas supply and necessary infrastructure to meet all of California's needs. Volatility of natural gas prices and the increasing demand for natural gas have raised concerns about the adequacy of capacity in the future. The CPUC, along with the CEC, is examining the potential for Liquefied Natural Gas (LNG) as a viable supply source to meet California's natural gas demand in 2004. Specifically, the CPUC will look into permitting, pricing impacts, siting requirements, safety, environmental risks, and the time required to construct LNG facilities to serve California.

Ensuring Natural Gas Facilities Are Operated Safely

Safety is a critical component of ensuring that California customers receive a reliable supply of natural gas to meet their needs. The CPUC staff will perform **regular and targeted inspections** to ensure the continuous and safe operation of the systems, and **investigate any gas system accidents or incidents** that may occur.

Ensuring Reasonable Natural Gas Rates

A fundamental issue in the gas sector is ensuring reasonable and fair natural gas prices, which involves proceedings at the CPUC as well as the CPUC representing California natural gas consumers in numerous FERC proceedings.

In 2004, the CPUC will need to take certain actions in its own proceedings, at the FERC, and in the courts to implement the **El Paso Settlement**, which arose from a complaint the CPUC filed.⁶ Under the settlement, El Paso has agreed to pay an estimated \$1 billion (net present value), primarily to entities such as the California public utilities, which will pass through the settlement dollars to California electric and natural gas ratepayers. In addition, the CPUC will continue its own investigation into the gas market activities and impacts on the gas price spikes experienced at the California border during that 2000-2001 timeframe.

The CPUC will continue to ensure reasonable interstate pipeline rates by representing California natural gas consumers in FERC proceedings in 2004. In addition, the CPUC intends to take a hard look at revenue requirements and cost of service for intrastate pipelines and distribution systems in the **General Rate Case proceedings** of PG&E, Southern California Gas Company and San Diego Gas and Electric Company. The CPUC is also evaluating the **gas cost incentive mechanisms** to ensure the regulatory framework supports reasonable rates, reliable service and appropriate utility purchasing practices. The CPUC will also establish its policy on firm, tradeable **gas transmission rights** on the PG&E and Southern California Gas Company systems.

TELECOMMUNICATIONS

The CPUC's fundamental priorities in the telecommunication sector are:

- Maintaining Appropriate Policy and Regulatory Treatment for Carriers, Given New Technologies
- Addressing Pricing Issues, Terms and Conditions for Competitive Use of the Network
- Strengthening Customer Protection and Empowering Consumers Against Fraud

⁶ The CPUC filed a complaint against El Paso Natural Gas Company and one of its affiliates, alleging that El Paso substantially contributed to the unreasonably high natural gas prices in California from June 2000 through May 2001. In June 2003, the CPUC and others entered into a settlement with El Paso to resolve the CPUC complaint proceeding at the FERC and numerous court cases against El Paso.

- Maintaining and Improving Access to High Quality Telecommunication Services
- Facilitating the Deployment of New Information Technologies and Services Vital to California's Future
- Providing Telecommunications Equipment and Services to the Deaf and Disabled Community
- Maintaining Funding for Programs that Support Access to the Telecommunications Network for those Living in Low-income Communities or Expensive-to-serve Rural Communities

The CPUC will continue to have a strong presence for California at the **Federal Communications Commission (FCC)**, and the courts, if necessary, and will remain active in federal proceedings that impact rates and services of telecommunication customers in California.

Maintaining Appropriate Policy and Regulatory Treatment for Carriers, Given New Technologies

During the past five years, consistent with state and federal policy, the CPUC has promoted competition for all telecommunications services, while at the same time, it has enforced basic requirements for service quality and consumer protection to ensure reliable service. When the Commission adopted the New Regulatory Framework (NRF) mechanism in 1990, it established a process by which it would review Pacific Bell and Verizon's operations triennially to detect and prevent deterioration of service that could occur as a result of cost-cutting. During 2003, the CPUC conducted its forth audit of the two firms' operations and after a close examination found that Verizon offers very good service quality and SBC offers generally good service quality in most areas, but has a weak service record in resolving reports of trouble on residential lines and slow responses to billing inquiries. In 2004, the CPUC will commence the last part of the **NRF review** to consider and implement any necessary revisions to the existing framework as a result of the audits and service quality findings in 2003.

The CPUC works hard to ensure that high-quality telecommunications services are available to all Californians as mandated by PU Code § 709 (as amended by SB 1536 (Polanco) Ch. 674, 2002). In 2004, the Commission will develop a plan for encouraging the widespread availability and use of **advanced communications infrastructure** to be completed by December 31, 2004.

Addressing Pricing Issues, Terms and Conditions for Competitive Use of the Network.

Pursuant to federal requirements, the CPUC has unbundled the local network components that incumbent local carriers must provide to their competitors – the **unbundled network elements (UNEs)** – and is now in the process of setting appropriate prices for those UNEs at the state level. In 2004, the CPUC will complete UNE pricing for both SBC and Verizon.

At the same time, the CPUC will conduct proceedings to respond to the FCC's order regarding network **switching**, which is a key element of what is known as the

“unbundled network element platform” (UNE-P). The FCC has ruled that state commissions such as the CPUC should determine the extent to which incumbent local exchange carriers (ILECs) should no longer be required to make certain types of UNEs, including switching, available to competitive local exchange carrier (CLECs). In some geographical areas, this could result in some CLECs not being able to provide local services exclusively through the use of the ILECs’ networks. The CPUC will perform the review directed by the FCC and respond within the required 9 months.

The FCC is also reviewing its current **pricing methodology for UNEs**, called Total Element Long Run Incremental Cost (TELRIC). The FCC is considering whether to modify UNE and service resale pricing rules to allow state commissions more flexibility in developing UNE prices and resale discounts. The CPUC will be active at the FCC in shaping the federal rules.

The CPUC will also work on developing and assessing **network performance measures and incentive mechanisms** to foster more robust competition in the telecommunication industry. Specifically, the CPUC will work on Operations and Support Systems (OSS) performance measures for SBC and Verizon to ensure their services to CLECs do not present barriers to the CLECs’ ability to offer consumers local phone service.

Strengthening Customer Protection and Empowering Consumers Against Fraud.

Protecting customers against fraud is of utmost importance to the CPUC. The CPUC aggressively **pursues violators and prosecutes them** alone, and in cooperation with local district attorneys to achieve the highest level of consumer protection for Californians. It also applies penalties and places companies on probation, if needed.

The CPUC receives numerous complaints from customers and is committed to ensuring that each one is handled in an efficient and timely manner, given resource constraints. To address the high number of consumer complaints the CPUC receives and to assist consumers in the ever more complex and diverse telecommunications market, the CPUC has sought extensive input from consumers and carriers and is developing a **consumer bill of rights** (BOR) for telecommunication customers to ensure all market participants are held to the same set of standards. If adopted, the BOR will facilitate consumer awareness of their rights and mitigate customer confusion when choosing among competing service providers. The BOR will mandate that customers receive clear and complete disclosure of terms and conditions of service, choice of telephone companies, privacy of personal information, and clearer, more accurate, and timely monthly bills, and the opportunity for remedies against a telephone company. The objective is to empower consumers with clear and complete information so that they can make informed choices. If adopted, the CPUC will implement the bill of rights in 2004.

At the same time, the CPUC will continue to work on other important consumer-related issues. For example, in 2004, the CPUC will consider whether it should implement a **telecommunication consumer education program** to educate consumers about the bill of rights, and whether it should require communications that are directed at

consumers to be in languages other than English to reach a larger population.

In addition, the CPUC is **increasing its oversight and prosecutions of consumer fraud**, focusing on companies with a high number of consumer complaints. The CPUC will continue its aggressive efforts to combat slamming (switching service providers without customer consent) and cramming (unauthorized, non-telephone charges on a customer's bill). In 2004, the CPUC will ensure that companies that engaged in abusive marketing activities and were levied a penalty, pay the fines to the state's General Fund.

Another area of concern for consumer fraud is in the wireless industry where the potential for fraud, unfair competitive behavior, and consumer abuse increases as more customers sign up for service and the number of providers grows. The CPUC monitors the activities of telecommunication providers to prohibit unfair practices and to ensure that customers receive fair, non-discriminatory services. **Local number portability** is important to both customers and wireless providers and is now mandated by federal law. Customers are now allowed to retain their original phone numbers when they switch providers, making switching to new service providers more attractive, and easier. To discourage carriers from blocking customers who wish to take their cell phone numbers to new companies, the CPUC will measure and track carrier performance.

The diminishing availability of new phone numbers within existing **area codes** is also an issue the CPUC will continue to address in 2004. The CPUC has determined that number conservation is in the interest of customers and has implemented a number of conservation measures to assure that telephone numbers in California's area codes are being used as efficiently as possible. In 2004, the CPUC will continue to work on number conservation to avoid unnecessary area code changes.

Maintaining and Improving Access to High Quality Telecommunication Services

Ensuring Californians receive high quality telecommunication services is one of the CPUC's important responsibilities. In response to increasing consumer complaints, the CPUC started a **Service Quality Standard Rulemaking** to review the decade-old standards currently used to evaluate telecommunication service quality. In 2004, the CPUC will finalize the review of service quality measures and standards for telecommunications-related products and services in light of the current industry structure and regulatory environment and will establish ways to measure, monitor and enforce them.

Facilitating the Deployment of New Information Technologies and Services Vital to California's Future

Introduction of new and innovative technologies in the telecommunication market also may require new approaches to public policy and reevaluating and implementing new regulations. Federal and state regulators are now focusing on appropriate regulatory treatment of businesses that provide voice services over the Internet. The technology, known as **VOIP**, has made two-way voice communication on the Internet possible. In 2004, the CPUC will launch an examination of VOIP regulation.

In addition, pursuant to legislation, the CPUC is conducting a rulemaking proceeding into what California can do to promote the deployment of and access to **broadband technologies**. The Commission will submit recommendations to the legislature early in 2004.

Providing Telecommunications Equipment and Services to the Deaf and Disabled Community

During 2003, the CPUC worked on transitioning the **Deaf and Disabled Telecommunications Program** (DDTP) to state administration. In 2004, the CPUC will complete the transition, and consider improvements to program administration while maintaining stable program operations with limited staff resources.

Maintaining Funding for Programs that Support Access to Telecommunication Network for Those Living in Low Income Communities or Expensive-to-serve Rural Communities

New telecommunication technologies, including VOIP and other new technologies, may lower telecommunications bills and thereby undercut the surcharge revenues used to support social programs. The CPUC will need to **ensure a stable funding basis for supporting social programs** and this may require the CPUC to begin to reexamine the basis for funding social programs to determine a long-term solution.

California AB 140 (Ch. 903, Stats. 2001) created the **Rural Telecommunications Infrastructure Grant Program**. The first of its kind in the nation, the program will provide grants of up to \$2.5 million per project, with total grant funding of \$10 million per year, for construction of telecommunications infrastructure to low-income, rural communities currently without telephone service. In September 2003, the CPUC established eligibility criteria for community-based groups to apply for grants, established a government-industry working group to develop the technical criteria for use in evaluating grant applications, and established grant administration rules. In 2004, the CPUC will continue program implementation.

WATER

Our fundamental challenge in the water sector is coping with the costs of tougher water quality standards and infrastructure replacement born by privately-owned companies, while at the same time ensuring that prices remain fair and reasonable for the companies' customers, about 20% of California's water users. In 2004, the CPUC will continue to take these priorities up on a district-by-district basis in water company **General Rate Cases**. The CPUC's five primary priorities for the water sector are:

- Enforcing Water Quality Requirements
- Planning Water Supply
- Improving Aging Water Infrastructure
- Improving Affordability
- Managing Increased Audit and Rate Case Workload

Enforcing Water Quality Requirements.

The CPUC works closely with the California Department of Health Services (DHS) and the California Department of Water Resources to ensure the safety of the drinking water that California customers receive. Together, they enforce water quality requirements in the state. In 2004, the CPUC will issue a **Water Quality Rulemaking**. In that proceeding, the CPUC will consider what changes in CPUC rules and standards should be made and identify long-term and contemporaneous actions that water utilities should be required to take to best ensure the health and safety of utility customers and employees. The CPUC will continue to work with the utilities, DHS, and the California Department of Water Resources to develop usable water resources, and identify sources of funding for water utilities to provide quality water to Californians.

The CPUC is also **monitoring the utilities' source water** quality and the physical conditions of the systems. For example, the CPUC is monitoring the utilities' **Infrastructure Needs Survey** reports to the US EPA and using them for resource planning. The CPUC will continue to be actively involved in assisting the utilities in obtaining **Drinking Water State Revolving Fund** loans for water system upgrades to improve water quality.

Proactive Planning for Water Supply

The costs associated with water availability and treatments are making some supplies uneconomic, and the possibility of a drought always looms in California. The CPUC is **identifying long-term supply options**, like desalinization investments, additional ground water drilling, and surface water options such as storage of excess winter flows in groundwater aquifers. Although Californians use less water per capita than any other western state, the CPUC continues to support and encourage utility efforts in promoting **water conservation**.

Improving Aging Water Infrastructure

The water infrastructure of California's regulated utilities is aging and, in some cases, needs immediate replacement to ensure reliable, safe water service. The capital investments necessary to upgrade water systems pose a challenge. This is especially true when added to the costs of higher contaminant testing and treatment standards. The small water utilities in particular have difficulty coping with infrastructure improvement costs. The CPUC assists utilities in identifying problems and developing solutions, from **supporting economic mergers and sales** of small water companies, to the extreme situations of **petitioning Superior Court** for a receivership to sell, or at least to ensure competent management of those systems whose operators have not or cannot operate them reliably and safely.

For the large water utilities, the CPUC is monitoring their **vulnerability assessments** and 2004 Drinking Water **Infrastructure Needs Survey** to address specific future infrastructure replacements and improved security against threats to the systems.

Improving Affordability

The CPUC is committed to ensure that adequate supply of water at reasonable cost is available to every utility customer. However, with the rising cost of water, the ability of some customers to pay is a concern. The CPUC ensures that customers who qualify as low-income customers receive assistance with bill payments and continue to receive service. In 2004, the CPUC will continue to implement **rate relief programs for low-income ratepayers**, as provided in PU Code § 739.8. In addition, as part of a settlement that was approved for California-American Water Company in 2002, the CPUC is participating with Cal-Am in developing low-income assistance programs for Cal-Am's ratepayers⁷ and will submit a report for Commission consideration in 2004. The CPUC also reviews expenditures and monitors the monies that are spent on each of the public purpose programs of Cal-Am, including the low-income assistance program.

Managing Increased Audit and Rate Case Workload

The CPUC will continue to inspect and audit the books and records of large and small water utilities in 2004. Per PU Code 314.5, the CPUC is required to audit the companies with over 1000 service connections at least once in every three years and the companies with fewer than 1000 customers every five years. The CPUC's priority is focusing on the utilities most in need of an audit from among the 130 small water systems and 70 districts of larger systems the CPUC regulates.

PU Code § 455.2 (AB 2838 (Canciamilla) Ch. 1147, 2002) requires the Commission to schedule a **General Rate Case** every three years for the ten Class A regulated water utilities (serving more than 10,000 service connections). Because these utilities consist of 64 ratemaking districts, the CPUC's water general rate case workload has increased from an average of eleven ratemaking districts per year (over the last five years) to 21 to 22 districts per year, without additional staffing. Therefore, it has become increasingly important that the process for reviewing these filings is efficient and streamlined and maximizes the use of the CPUC's limited resources. In 2004, the CPUC will be completing the **Rate Case Plan Rulemaking** (R.03-09-005) to develop creative and responsible approaches to managing and ensuring timely processing of these general rate case filings.

TRANSPORTATION

The CPUC oversees the safety of rail transit systems, all railroads, and the 11,000 public and 5000 private highway rail crossings. This includes safety inspections and accident investigations by specially-trained and federally-certified inspectors and staff. The CPUC is also responsible for licensing and registering motor carriers of passengers and household goods and acts to prevent the unlawful business practices of these entities. The CPUC's primary challenge in fulfilling its transportation responsibilities is to:

- Increase Rail Crossing and Railroad Safety through Enforcement of Rail Safety Laws
- Investigate Rail Accidents
- Educate the Public on Railroad Safety

⁷ D.02-12-028 approved shareholders fund of \$50,000 a year for 5 years to establish low-income assistance programs.

- Improve Consumer Protection through Effective and Efficient Enforcement of Motor Carriers

Increasing Rail Crossing and Railroad Safety Through Enforcement of Rail Safety Laws

Many of California's railroad crossings are close to populated areas, and rail traffic volumes are on the rise. Almost one-fifth of all rail-related fatalities in California occur at at-grade crossings where the railroad and roadway intersect. The CPUC supports additional rail service, and is working to **reduce rail crossing hazards**, exploring ways to improve safety of existing and proposed rail crossings in the state. In 2004, the CPUC will identify the most dangerous rail crossings in need of urgent improvement and develop a priority list that is used to solicit funds from the Federal Section 130 program funds for reducing hazards at at-grade crossings and State grade separation programs funds for eliminating at-grade crossings by grade-separating them. The CPUC will revisit and refine its method of analysis for identifying dangerous crossings.

Although the CPUC has the responsibility to inspect all heavy rail tracks annually as well as to inspect locomotives, cars, and railroad equipment repair facilities semiannually to ensure rail companies operate safely, the CPUC will not be able to meet this mandate in 2004 due to a lack of staffing resulting from attrition, budget cuts, and hiring freezes. Nonetheless, the CPUC plans to **inspect and perform major operational testing** on Burlington Northern and Santa Fe Railway Company (BNSF), Southern California Regional Rail Authority (operators of Metrolink commuter trains), and Union Pacific Railroad Company (UPRR) systems. In addition, the CPUC is reviewing rail crossing proposals involving seven new light-rail systems (scheduled to be opened in 2004 or later) to ensure that potential hazards are eliminated prior to construction. The CPUC plans to conduct a triennial safety audit of Los Angeles County Metropolitan Transportation Authority, Santa Clara Valley Transportation Authority, and the AirTrain Shuttle System at San Francisco International Airport for compliance with system safety programs.

To **enhance the safety of light-rail fixed guideway public transportation systems**, the CPUC adopted General Order (GO) 164-C in 2003, which heightened the level of CPUC safety review prior to revenue service for all rail fixed guideway systems in California. In 2004, the CPUC will implement and enforce these important changes when reviewing applications.

Investigate Rail Accidents

The CPUC investigates accidents to **identify the root cause**, penalizes non-compliance with state and federal railroad safety regulations and makes recommendations to improve safety and prevent future accidents. In 2004, the CPUC will continue to focus on UPRR's operations, which experienced a significant number of serious accidents, near accidents, and runaway trains in 2003. The CPUC will target its enforcement effort to ensure UPRR addresses the root cause of these accidents promptly. In addition, the CPUC will collaborate with Federal Railroad Administration (FRA) on focused inspections based on accident trends.

Educate the Public on Railroad Safety and Reduce Trespasser Fatalities

The rising number of "trespasser" fatalities (pedestrians illegally walking on railroad rights-of-way at other than designated crossings), which comprise 65% of rail-related fatalities, is also a key challenge for the CPUC. The CPUC will continue active participation in the **Operation Lifesaver Program**, a national community outreach program that focuses on the three "E"s of railroad safety: Education, Engineering, and Enforcement, as well as interaction with local law enforcement agencies and the FRA on crossing and trespasser prevention.

Finally, the CPUC is participating in a federal government rulemaking to develop **national standards** for the sounding of locomotive horns and the establishment of "Quiet Zones".

Improve Consumer Protection Through Effective and Efficient Enforcement of Motor Carriers

In 2004, the CPUC continues to work to develop a **streamlined passenger, household goods, and vessel common carrier licensing process** by modernizing its database to accommodate future online processing of license applications. While the magnitude of this undertaking might preclude full implementation by the end of 2004, the new system should be in place no later than mid-2005. This effort and investment will shorten the process time for what are often small business owners and ease the burden on third parties that must submit verification in support of a license, and will expedite the CPUC's verification that carriers comply with safety and driver screening requirements.

Still, hundreds of household goods movers operate in California illegally or unlicensed or charge customers unauthorized fees. The CPUC receives numerous complaints against household goods movers. In 2004, the CPUC will increase its **enforcement effort consistent with the requirements of AB 845** and *People v. Pacific Bell* to protect consumers against these illegal activities and stop consumer fraud, and will focus on those household good carriers who violate movers' rules and regulations. ((Vargas) Ch. 646, 2003.) The CPUC will implement two **inter-agency enforcement efforts** to deal with moving industry violations. In 2004, the CPUC will continue its effort with the California Attorney General and Los Angeles City Attorney to investigate unlicensed movers throughout California. It will also work with the Employment Task Force to identify movers who fail to comply with securing workers' compensation or pay proper employment taxes for their employees. At the same time, the CPUC will continue to monitor companies who were found to have violated our rules in the past. In addition, the CPUC will act on CPUC decisions to ensure violators pay the penalties due to the state, and comply with CPUC regulations.

COMMISSION-WIDE INITIATIVES

The CPUC is also engaged in efforts of broad interest that are not specific to the industries the agency oversees. In 2004, Commission-wide initiatives include:

- Improving Diversity
- Improving Communication with Limited English Proficient Communities, Seniors, and Low-income Customers
- Managing the Backlog

Improving Diversity

The goal of the **Utility Supplier Diversity Program**, formerly called the Women/Minority/Disabled Veteran Business Enterprises (WMDVBE)⁸ program, is to expand contract opportunities between the utilities and women-, minority- and disabled veteran-owned businesses. Expanding the pool of potential suppliers and increasing the competition for utility contracts will result in lower costs for ratepayers. In 2002, the utilities subject to General Order 156 reported over \$1.4 billion in contracts with women, minority and disabled-veteran enterprises. The \$1.4 billion represents 23.6% of total utility procurement. In 2004, the CPUC will focus on improving the **Utility Supplier Diversity Program**. CPUC staff will assist water utilities, which have volunteered to participate in the Utility Supplier Diversity Program. In addition, the CPUC will identify cellular telephone utilities that meet the threshold requirements of General Order 156. To achieve greater uniformity in Utility Supplier Diversity reporting, the CPUC staff will work with interested parties and the utilities to propose methods to **develop uniform reporting categories** for utilities to employ in their annual reports to the CPUC. Uniform reporting allows the CPUC the opportunity to evaluate individual utility achievement on a standardized basis, and identify procurement categories that offer greater opportunities to women, minority, and disabled veteran businesses. In 2003, the CPUC addressed its role in improving workplace diversity, with the goal to improve both internal diversity and better influence utility employment practices.

Improving Communication with Limited English Proficient Communities, Seniors, and Low-income Customers

As part of providing information and assistance to the media and general public, the CPUC continuously looks to improve communication with limited English proficient communities, seniors, and low-income customers. In 2003, the CPUC appointed a new **bilingual service coordinator** to ensure the CPUC provides accurate and useful information about utility and transportation services to California's limited English speaking communities. Working closely with the State Personnel Board (SPB), the bilingual services coordinator is expanding the CPUC's multilingual capability in order to comply with the Dymally-Alatorre Act requirements to provide materials and consumer assistance in the consumer's preferred language, not only those languages spoken by 5 percent or more of the population but also in other languages used by California's diverse population. The CPUC provides CPUC information in **multiple languages** for print or for website use. CPUC's Consumer Affairs Branch (CAB) now has 3 Spanish-speaking customer service representatives to answer consumer calls immediately in

⁸ WMDVBE was enacted in 1986 to ensure that a fair proportion of total utility contracts and subcontracts for products and services are awarded to women, minority, and disabled veteran business enterprises (WMDVBE). (See generally Pub. Util. Code §§ 8281–8286.)

Spanish. In addition, the bilingual services coordinator is actively seeking CPUC employees who qualify to be tested to become certified bilingual speakers. The coordinator also manages a Bilingual Volunteer program of staff members who can assist callers and customers in more than 15 languages. CPUC's Communications Office, the Public Advisor's Office, the CAB, and all outreach programs, include bilingual communications to better serve California's diverse population. In 2004, the CPUC will continue its effort to ensure it is responsive to the needs of all customers, including those who are most vulnerable.

In 2004, the CPUC will expand this effort by tracking, monitoring and tailoring its programs to the needs of the customers. The CPUC is interested in receiving broader input in its proceedings from all communities and in 2004 will work to improve its solicitation of public input. The Public Advisor's Office has also coordinated efforts to make sure that CPUC decision makers and analysts are informed regularly of public opinion through a table of issues and proceedings with the numbers of public responses in support or in opposition.

Managing the Backlog

With energy services no longer in crisis, the CPUC is assessing its **backlog** of informal filings submitted to the Commission when regulated businesses need CPUC approvals to conduct business or individual consumers need help dealing with regulated companies. The CPUC is implementing actions to reduce and manage that backlog. Specifically the CPUC will:

- Modify the Case Information System Database so that it retains multiple closing dates for complex proceedings.
- Better track proceeding submission dates.
- Continue to prepare an annual workplan that contains work priorities and criteria for determining the priorities.
- Review all open Advice Letters and close those that have been completed.
- Create a more effective filing system for Telecommunication Division Advice Letters.
- Make sure that the Telecommunication staff complete and retain advice letter approval and review forms.
- Improve CPUC's Work Tracking System.

How Do Consumers Resolve a Complaint or Get Involved in a CPUC Proceeding?

The CPUC reviews and monitors utility practices and consumer complaints, and opens investigations as necessary and appropriate. CAB receives complaints, resolves disputes between customers and utilities, and provides consumer education and enforcement. Customers with unresolved questions about telephone, gas, water or electric utility service or bills should contact the CPUC Consumer Affairs office at:

CPUC Consumer Affairs Branch
505 Van Ness Avenue
San Francisco, CA 94102

800-649-7570
consumer-affairs@cpuc.ca.gov

The Public Advisor's Office assists consumers by explaining how to file a formal complaint, how to use CPUC procedures, and how to participate in CPUC proceedings. The Public Advisor's Office also coordinates Public Participation Hearings on selected CPUC proceedings around the state, and receives, circulates within the CPUC, tabulates and responds to public comments on various proceedings.

CPUC Public Advisor
505 Van Ness Avenue, Room 2103
San Francisco, CA 94102

1-866-849-8390
public.advisor@cpuc.ca.gov

CPUC Public Advisor
320 W. 4th Street, Suite 500
Los Angeles, CA 90013

1-866-849-8391
public.advisor.la@cpuc.ca.gov

THE GUIDE TO PUBLIC PARTICIPATION explains how consumers may participate in the CPUC's formal proceedings and is available from the CPUC Public Advisor's Office, or on-line at www.cpus.ca.gov.

How the CPUC is Addressing Its Priorities and Objectives

The attached list of proceedings provides a brief description of some of the major formal proceedings before the CPUC. These proceedings are being highlighted from the 600 active cases the CPUC is processing because they raise issues of broad consumer interest or impact. The proceeding number necessary for quickly obtaining additional information about the case is noted, along with the lead Commissioner responsible for shepharding the case forward to resolution. For those cases expected, but not yet formally filed, less detail is included.

[CPUC Major Proceedings \(Attachment to CPUC 2004 Workplan\)](#)

- [Attachment to Work Plan 2004](#)